

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2627 OF 2007

Sahadeo M. Sondkar, since deceased
through L.Rs. Sunil S. Sondkar & Ors. .. Petitioners
VS.
Gopal M. Upale, since deceased
through his L.Rs.
Smt. Meera G. Upale (deceased),
Vijay G. Upale & Ors. .. Respondents

None for Petitioners.

Ms Mohinee Chougule i/b. Aarti Bhide for Respondent No. 1.

CORAM : M. S. SONAK, J.

DATE: 24 APRIL 2015

P.C. :-

1] This petition challenges order dated 18 September 2006, by which the District Judge 10, Pune, has rejected the petitioners application seeking leave to amend the plaint at the stage when the matter was pending before the appeal court. The record indicates that the petitioners suit for eviction of the respondents on grounds of bonafide requirement has already been dismissed by the trial Court. At the stage when the matter was pending in appeal, the petitioners applied for amendment to original plaint, *inter alia* on the ground that the petitioners have obtained information regards certain matters which would enable the petitioners to establish that the respondents have acquired certain other premises.

2] The impugned order records that leave to amend was not applied for with due diligence. Further, if leave to amend is granted, the same would entail remand and consequent leading of fresh evidence in the matter. Further, the provisions of Section 34 of the Rent Act provides for only one appeal and in case, amendment to the plaint is allowed at the appellate stage, and the matter is decided against the respondents, the respondents might perhaps be deprived of the opportunity of appeal.

3] In the peculiar facts and circumstances of the present case, it does appear that the petitioners were not diligent enough in seeking leave to amend. Even the application seeking leave to amend, very casually states that certain additional information has come to the knowledge of the petitioners recently. There are no particulars furnished.

4] In view of the aforesaid, it cannot be said that the impugned order is vitiated by any jurisdictional error or perversity of approach. This petition is accordingly dismissed. Interim orders, stand vacated. There shall be no order as to costs.

(M. S. SONAK, J.)